

by serious illness or other circumstances beyond their control from carrying out their functions as commissioners. In no event shall a decision be made without the concurrence of at least four commissioners.

§ 401.9 Suspension or amendment of rules.

The commission may suspend, repeal, or amend all or any of the rules of procedure at any time, with the concurrence of at least four commissioners. Both Governments shall be informed forthwith of any such action.

§ 401.10 General rule.

The Commission may, at any time, adopt any procedure which it deems expedient and necessary to carry out the true intent and meaning of the Treaty.

§ 401.11 Availability of records.

(a) The following items in the official records of the Commission shall be available for public information at the permanent offices of the Commission.

Applications.
References.
Public Notices.
Press Releases.
Statements in Response.
Statements in Reply.
Records of hearings, including exhibits filed.
Brief and formal Statements submitted at hearings or at other times.

(b) Decisions rendered and orders issued by the Commission and formal opinions of any of the Commissioners with relation thereto, shall be available similarly for public information after duplicate originals of the decisions or orders have been transmitted to and filed with the Governments pursuant to Article XI of the Treaty.

(c) Copies of reports submitted to one or both of the Governments pursuant to the Treaty shall be available similarly for public information only with the consent of the Government or Governments to whom the reports are addressed.

(d) Reports, letters, memoranda and other communications addressed to the Commissions, by boards or committees created by or at the request of the Commission, are privileged and shall become available for public informa-

tion only in accordance with a decision of the Commission to that effect.

(e) Except as provided in the preceding paragraphs of this section, records of deliberations, and documents, letters, memoranda and communications of every nature and kind in the official records of the Commission, whether addressed to or by the Commission, commissioners, secretaries, advisers or any of them, are privileged and shall become available for public information only in accordance with a decision of the Commission to that effect.

(f) A copy of any document, report, record or other paper which under this section is available for public information may be furnished to any person upon payment of any cost involved in its reproduction.

Subpart B—Applications

§ 401.12 Presentation to Commission.

(a) Where one or the other of the Governments on its own initiative seeks the approval of the commission for the use, obstruction or diversion of waters with respect to which under Articles III or IV of the Treaty the approval of the Commission is required, it shall present to the Commission an application setting forth as fully as may be necessary for the information of the Commission the facts upon which the application is based and the nature of the order of approval desired.

(b) Where a person seeks the approval of the Commission for the use, obstruction or diversion of waters with respect to which under Articles III or IV of the Treaty the approval of the Commission is required, he shall prepare an application to the Commission and forward it to the Government within whose jurisdiction such use, obstruction or diversion is to be made, with the request that the said application be transmitted to the Commission. If such Government transmits the application to the Commission with a request that it take appropriate action thereon, the same shall be filed by the Commission in the same manner as an application presented in accordance with paragraph (a) of this section. Transmittal of the application to the Commission shall not be construed as authorization